

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

- v. -

RARE BREED TRIGGERS, LLC; RARE
BREED FIREARMS, LLC; LAWRENCE
DEMONICO; KEVIN MAXWELL,

Defendants.

Civil Action No.

**[PROPOSED] TEMPORARY RESTRAINING ORDER AND
ORDER TO SHOW CAUSE**

This matter having come before the Court upon the application of Plaintiff, the UNITED STATES OF AMERICA, for a temporary restraining order pursuant to 18 U.S.C. § 1345; the Complaint; the Declaration of Special Agent Daniel Koneschusky; and the Certification of the Attorney for the United States:

WHEREUPON THE COURT, having considered the matter, finds that:

1. There is probable cause to believe that Rare Breed Triggers, LLC; Rare Breed Firearms, LLC; Lawrence DeMonico; and Kevin Maxwell (collectively, Defendants) have, in violation of 18 U.S.C. § 371, knowingly and intentionally conspired to defraud the United States by impeding, impairing, obstructing, and defeating the lawful Government functions of the ATF in their regulation of machineguns under the National Firearms Act of 1934 (NFA) and the Gun Control Act of 1968 (GCA).

2. There is probable cause to believe that Defendants have engaged in the ongoing commission of mail fraud in violation of 18 U.S.C. § 1341.

3. There is probable cause to believe that Defendants have engaged in the ongoing commission of wire fraud in violation of 18 U.S.C. § 1349.

4. There is probable cause to believe that Defendants have engaged in the ongoing conspiracy to commit mail fraud in violation of 18 U.S.C. § 1349.

5. There is probable cause to believe that Defendants have engaged in the ongoing conspiracy to commit wire fraud in violation of 18 U.S.C. § 1349.

6. The statutory conditions for granting a temporary restraining order under 18 U.S.C. § 1345 are therefore met;

7. Irreparable harm to the public is presumed in actions under 18 U.S.C. § 1345 where the statutory conditions are met. *See United States v. Savran*, 755 F. Supp. 1165, 1179 (E.D.N.Y. 1991); *see also United States v. Palumbo*, 448 F. Supp. 3d 257 (E.D.N.Y. 2020); *United States v. Kahen*, No. 20-CV-00474 (BMC), 2020 WL 1697974 (E.D.N.Y. Jan. 28, 2020). Nonetheless, even though a showing of irreparable harm is not necessary under Section 1345 in order to obtain injunctive relief, permitting Defendants to continue to participate in the alleged fraud scheme would constitute irreparable harm. Immediate and irreparable injury, loss, or damage could result before Defendants can be heard in opposition; and

8. Defendants' violations will continue unless a temporary restraining order is issued.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to 18 U.S.C. § 1345, pending a hearing and determination on the United States' application for a preliminary injunction, that Defendants, their agents, officers and employees, and all other persons and entities in active concert or participation with them are temporarily restrained from:

- i. conspiring to defraud the United States, as defined by 18 U.S.C. § 371;
- ii. committing mail fraud, as defined by 18 U.S.C. § 1341;

- iii. committing wire fraud, as defined by 18 U.S.C. § 1343;
- iv. conspiring to commit mail fraud, as defined by 18 U.S.C. § 1349;
- v. conspiring to commit wire fraud, as defined by 18 U.S.C. § 1349;
- vi. engaging in any sales of the FRT-15, the Wide Open Trigger, and/or any forced reset trigger or other machinegun conversion device until and unless otherwise ordered by this Court; and
- vii. be required to preserve all documents related to the manufacture, possession, receipt, transfer, and/or sale of the FRT-15s, Wide Open Triggers, forced reset triggers, and/or machinegun conversion devices and components thereof.

IT IS HEREBY FURTHER ORDERED that Defendants shall appear, in-person or via remote means, before this Court and the Honorable _____ United States District Judge, on the day of _____ to show cause why a preliminary injunction, pursuant to Fed. R. Civ. P. 65 and as requested by the United States, should not be granted.

IT IS HEREBY FURTHER ORDERED that a copy of this Temporary Restraining Order and Order to Show Cause, together with the Complaint, the Declaration of Special Agent Daniel Koneschusky, and the Certification of the Attorney for the United States, shall be served upon Defendants, on or before the day of _____.

IT IS HEREBY FURTHER ORDERED that Defendants shall serve and file any response to the United States' application for a preliminary injunction on or before _____ and that the United States shall serve and file any reply on or before _____.

IT IS SO ORDERED

UNITED STATES DISTRICT JUDGE